

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 19 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ISHWARBHAI RAMJIBHAI

Versus

DY COMMISSIONER OF POLICE

Appearance:

None present for Petitioner

MR LR PUJARI for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 20/02/98

ORAL JUDGEMENT

1. Perused the special civil application and heard the learned counsel for the respondents. The respondents have not filed reply to the special civil application, and as such, the averments made in the special civil application stand uncontroverted.

2. The petitioner, a Traffic Police Constable in the Police Department, by this petition under Article 226 of

the Constitution, challenges the action of the respondent No.1 initiating departmental inquiry against him before the criminal proceedings pending before the Competent Court are finally decided. Copy of the chargesheet dated 7-11-1985 is submitted as annexure 'A'.

3. On 1-6-1985, a criminal complaint was filed against the petitioner being C.R. No.629/85 in Kagdapith Police station, Ahmedabad for the offences punishable under section 66 (1)(b) and 85 (1)(2)(iii) of the Bombay Prohibition Act and under sections 110 and 117 of the Bombay Police Act.

4. On 13-2-1987, this petition has come up for admission, on which date, this Court has issued notice to the respondents and interim relief in terms of para-12 (c) has been granted. Para 12(c) reads as under:

pending admission, hearing and final disposal of this petition, be pleased to stay the proceedings initiated against the petitioner (annexure A) and to direct the respondents not to compel to petitioner to go on with the departmental proceedings.

5. On 12th April, 1988, the matter has come up for admission, on which date, the special civil application has been admitted and interim relief granted earlier was ordered to be continue till the trial of the criminal case registered at C.R. No.629/85 of Kagdapith Police station is over. It has further been cleared by this Court that after trial of the aforesaid case is over, it will be open to the respondent-authorities to proceed further with the departmental inquiry in question.

6. It is no more res integra that the disciplinary authority has a right to proceed departmentally in the matter of misconduct alleged to have been committed and to proceed for criminal liability against a delinquent employee. However, in the appropriate case, during the pendency of criminal case, the Court may stay the continuation of the departmental inquiry. That course is adopted in the present case by this Court. It is really a sorry state of affairs that the learned counsel for the respondents is unable to say what ultimately has been decided in the criminal case, which has been registered against the petitioner. However, that criminal case was of the year 1985 and there is all the possibility that by now that criminal case would have been decided and there is also the possibility that the departmental inquiry would also have been completed.

7. So, the interest of justice will be met in case this special civil application is disposed of in terms of the order, which has been passed by this Court on 12th April, 1988. The special civil application and rule stand disposed of in the aforesaid terms with no order as to costs.

zgs/-